HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL NO.1192 OF 2006

Between:

B.Pushyami
. . .Appellant

AND

The Principal Secretary,
Medical and Health Services,
Government of Andhra Pradesh,
Hyderabad and others
. . .Respondents

:: JUDGMENT ::

Counsel for the Appellant : Shri V.Venugopala Rao

Counsel for Respondent No.1 : Government Pleader for Medical and Health

Counsel for Respondent Nos.2 and 3 : Shri Tirumalasetti Kiran for Shri D.V.Nagarjuna Babu

9th November, 2006

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PER G.S.SINGHVI, CJ

Whether the Court can, in the absence of any provision in the statute regulating the examinations, ordain the University to revaluate the answer script of a candidate, is the question which arises for determination in this appeal filed against order dated 26.06.2006 passed by the learned Single Judge in Writ Petition No. 12249 of 2006, whereby he declined to issue a direction to respondent Nos.2 and 3 to revaluate the answer script of the appellant of the subject of Physiotherapy for Neurology Conditions.

The appellant is a student of Bachelor of Physiotherapy. She appeared in the examination of 8th semester held in the month of December, 2005. She was declared fail in the subject of Physiotherapy for Neurology Conditions because she could secure only 91 marks out of 200 as against the minimum required marks i.e., 100. She applied for revaluation of her answer script, but the authorities of NTR University of Health Sciences (for short, 'the University') did not accept her request. She then filed the writ petition under Article 226 of the Constitution, which was registered as Writ Petition No.12249 of 2006. In the affidavit filed by her, the appellant pleaded that even though she had performed well, the examiner did not properly assess her answer script and she has been arbitrarily declared fail. In paragraph 4 of her affidavit, the appellant averred as under:

> "4. In this event, I have to submit herein that on observing

my answer sheet at the time of re-counting, I have observed that the first question in No.1 of Part-A of the question paper (meant for 15 marks), the examiner has only given 1 (one) mark to my perfect answer. Further, for another questions viz. in No.2 of Part-A i.e. from 2(a) to (d) (f) and (g) the examiner has given only ½ mark to each answer, and for the question in 2(e) only 'Zero mark' has been given. In this event, all these questions are containing 5 marks each. But, the examiner has wrongly given very less marks to the above answers, depriving my career and future from all corners. Further, no sufficient marks have been given to all answers in Part 'B'."

The learned Single Judge dismissed the writ petition by observing that the petitioner cannot seek revaluation simply because she feels that the examiner has not assessed her answer script properly. The relevant extract of the order of the learned single Judge is reproduced below:

"Except her own assessment with regard to the correctness of the answers, there is no other basis for filing this Writ petition. Students' assessment with regard to correctness of answer is not the relevant factor for award of marks. It is ultimately the examiner who value the paper and award marks. Further, it is also brought to my notice that there is no provision in the academic regulations for revaluation of the answer scripts. It is fairly well settled that in absence of any provision for revaluation in the academic regulations, merely because student did not get marks as per his/her assessment, same is no ground, either to order for revaluation or to call for the answer script by this court, in exercise of powers under Article 226 of the Constitution of India. In that view of the matter, I do not find any valid ground for grant of relief as prayed for."

Shri V.Venugopala Rao, learned counsel for the appellant argued that there have been large scale irregularities and, therefore, the Court may order an enquiry into the entire gamut of the assessment

of answer scripts of all the students. He pointed out that number of students have raised their voice against the manner and mode of assessment and, therefore, the Court should take cognizance of their grievance and direct the university to get the answer scripts examined by another set of examiners. Learned counsel also submitted that the persons, who were appointed as examiners, are inexperienced and on that account, scores of students have suffered.

We have considered the submissions of the learned counsel, but have not felt impressed. A reading of the averments contained in the affidavit filed in support of the writ petition merely suggests that as per the petitioner there has been some error in the assessment of the answer script of the appellant. Such a suggestion cannot be made basis for ordering revaluation of her answer script because there is no provision in the University Act or rules for revaluation of the answer scripts. In **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kurmarsheth**[1], the Supreme Court unequivocally ruled that in the absence of any statutory provision for revaluation of the answer scripts, the Court cannot issue a judicial fiat to the educational body to refer the answer scripts of the candidates for revaluation or reassessment.

By applying the ratio of the aforementioned judgment, we hold that the appellant has failed to make out a case for issue of a mandamus to the respondents to undertake revaluation of her answer script of the paper of Physiotherapy for Neurology Conditions.

The argument of Sri Venugopala Rao that the Court may order an enquiry in the matter because the answer sheets of the students were got examined by inexperienced examiners cannot be accepted because none of the examiners, who was entrusted with the task of assessing the performance of the appellant and other students in the

subject of Physiotherapy for Neurology Conditions, was not impleaded as party to the writ petition.

Before concluding, we deem it proper to observe that the power of judicial review in such matters is extremely limited. The Court can interfere with the assessment made by the examiner only if it is shown that the assessment is tainted by mala fides or bias or there has been violation of some statutory provision. In the present case, it is neither the pleaded case of the appellant nor the learned counsel has argued that the examiner, who assessed the answer script of the appellant of the paper of Physiotherapy for Neurology Conditions, had acted with an ulterior motive or bias.

In the result, the appeal is dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 09.11.2006

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[1] AIR 1984 SC 1543